

Neutral Citation No. - 2023:AHC-LKO:40367

Reserved On: 18.05.2023

Delivered On: 06.06.2023

In Chamber

Case :- CRIMINAL REVISION No. - 184 of 2014

Revisionist :- Sonu

Opposite Party :- State of U.P.

Counsel for Revisionist :- Nisha Srivastava, Dheerendra Kumar Singh, Krishna Kumar Verma, Surendra Kumar

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Umesh Chandra Sharma, J.

1. This Criminal Revision has been preferred against the judgment and order of conviction and sentencing dated 4.9.2013 passed by learned Addl. Chief Judicial Magistrate, Court No. 16, Barabanki, and affirmed by learned Appellate Court, i.e. Addl. Sessions Judge, Barabanki, vide judgment and order dated 1.4.2014.

2. By the impugned judgment and order dated 4.9.2013 the learned trial Court had convicted the revisionist under Section 354 I.P.C. and sentenced him for six months of simple imprisonment with a fine of Rs. 15,00/- and in default of payment of fine to undergo further two months simple imprisonment. Out of the fine amount of Rs. 15,00/- an amount of Rs. 1,000/- was directed to be paid to the victim.

3. The order of the conviction and sentence passed by the learned Magistrate was affirmed by the Appellate Court on 1.4.2014.

4. In brief, facts of the case are that, the informant moved a complaint alleging therein that his daughter who was studying in Sarvodaya Inter College situated at Vishunpur Chauki, one Sonu resident of Pavaiyabad used to say inappropriate words to her. On 8.3.2011 when his daughter, accompanied by the daughter of Bechelal, was returning from school at about 4: 00 P.M. and reached near the garden of Pavaiyabad Pramukh, Sonu started

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molesting her by passing dirty words. On the noise of his daughter, people reached there on which the accused ran away.

5. After lodgment of the F.I.R. and after investigation, the charge-sheet was filed and charge under Section 354 I.P.C. was framed which was read over and was denied by the revisionist and the trial started.

6. During course of the trial, the informant P.W.-1, Keedhalal, P.W.-2, the victim, and P.W.-3, S.I. Shamshujjoha were examined. The genuineness of F.I.R., Kayami G.D. and site plan and charge-sheet were exhibited accordingly.

7. P.W.-1, informant, deposed that on the day of occurrence the accused molested his daughter and thrown her in a mustard field while talking dirty. When her daughter screamed, people grazing their cattle reached there upon which the accused ran away. This witness had reiterated the version of the F.I.R.

8. P.W.-2, the victim, has also supported the prosecution version and deposed that on the day and time of occurrence when she was coming back from college, the accused sitting on the canal bridge asked her in which school she was studying to which she replied what he meant. On this he said he wanted to talk him and started following her and pushed her in the garden of Pavaiyabad Pramukh. On noise people working in the nearby fields reached there and seeing them Sonu ran away from the spot. Her statement was recorded after two-three days of the incident by the police.

9. P.W.-3, I.O, has also supported the prosecution version and deposed that he had investigated the case crime no. 408 of 2011 under Section 354 I.P.C. and on the pointing of the victim and witnesses, he had visited the place of occurrence and prepared site plan and after investigation charge-sheet was filed against the accused in his signature.

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10. In the statement under Section 313 Cr.P.C. the accused stated the incident to be false and that the case was lodged due to enmity but no evidence in defence has been produced by the accused.

11. After conclusion of the trial, the learned Magistrate found that the accused-revisionist had committed the crime under Section 354 I.P.C. and concluded that the case has been proved beyond reasonable doubt. Hence revisionist was convicted and sentenced as above. The appeal preferred by the accused was also dismissed by the Appellate Court and the order and judgment of trial Court was maintained.

12. During course of argument in this revision, a report was called from the District Jail Superintendent, Barabanki, who in response has submitted a report dated 10.4.2023 mentioning therein that the revisionist has passed two months four days in jail out of six months i.e. from 4.9.2013 to 6.9.2013 and from 1.4.2014 to 31.5.2014.

13. Learned counsel for the revisionist argued that since there is no previous or after criminal history of the revisionist, hence, the aforesaid period of incarceration be treated to be sufficient in compliance of judgment and order of conviction and sentencing dated 4.9.2013, and affirmed by the Appellate Court.

14. In support of submissions the learned counsel for the revisionist has placed reliance on the judgment dated 10.2.2022 of the Coordinate Bench passed in ***Criminal Appeal No. 465 of 2020 (Ramsagar Vs. State of U.P.)*** wherein the appellant was convicted under Section 354 I.P.C. and was sentenced for two years imprisonment and fine of Rs. 10,000/- which was reduced to the period of imprisonment already undergone by the appellant. However, the fine as awarded by the trial Court was maintained and direction was issued for deposition of fine within a period of fifteen days. Contrary to the above, in this case only six months simple imprisonment and fine of Rs. 15,000/- has been awarded to the revisionist.

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15. Considering the facts and circumstances and also that at the time of occurrence, the revisionist was a person of tender age having no criminal antecedent, therefore, it would be appropriate to reduce the sentence and to treat the incarceration period of two months four days passed by the revisionist in compliance of the judgment and order of sentence by the trial Court and the Appellate Court as well, sufficient.

Order

The revision is partly dismissed so far as it relates to the conviction under Section 354 I.P.C. is concerned. The revision is partly allowed. The order and judgment of sentencing passed by the trial Court and affirmed by the Appellate Court, is modified to the extent that the period already undergone by the revisionist shall be treated to be sufficient in compliance of the impugned judgment and orders of both the Courts at District level. However, the order with regard to fine of Rs. 15,00/- is maintained and the same shall be deposited within a period of two months from the date of this judgment. Out of fine amount of Rs. 1,500/-, Rs. 1,000/- shall be paid to the victim and remaining amount shall be deposited in the Government Exchequer. In default of payment of fine the revisionist shall serve out his remaining period of sentence as directed by the trial Court and affirmed by the Appellate Court.

Order Date :-6.6.2023

S.Verma

{Umesh Chandra Sharma,J}